

SENATE BILL 867

D4

0lr2284
CF HB 534

By: **Senators Muse, Conway, Exum, Forehand, King, Lenett, Peters, Pugh, Raskin, Robey, and Rosapepe**

Introduced and read first time: February 12, 2010

Assigned to: Rules

Re-referred to: Judicial Proceedings, February 19, 2010

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 31, 2010

CHAPTER _____

1 AN ACT concerning

2 **Domestic Violence – Protective Order – Extension**

3 FOR the purpose of authorizing a ~~court~~ judge to extend the term of a protective order
4 for a certain period of time under certain circumstances; requiring the ~~court~~
5 judge to provide certain notice and a hearing before extending the term of a
6 protective order; requiring the ~~court~~ judge to consider certain factors in
7 determining the period of extension of a protective order; and generally relating
8 to an extension of a protective order.

9 BY repealing and reenacting, without amendments,
10 Article – Family Law
11 Section 4–506(i) and (j)
12 Annotated Code of Maryland
13 (2006 Replacement Volume and 2009 Supplement)

14 BY repealing and reenacting, with amendments,
15 Article – Family Law
16 Section 4–507
17 Annotated Code of Maryland
18 (2006 Replacement Volume and 2009 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
20 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **Article – Family Law**

2 4–506.

3 (i) (1) Except as provided in paragraphs (2) and (3) of this subsection, all
4 relief granted in a final protective order shall be effective for the period stated in the
5 order, not to exceed 1 year.

6 (2) All relief granted in a final protective order shall be effective for
7 the period stated in the order, not to exceed 2 years if:

8 (i) the court issues a final protective order under this section
9 against a respondent on behalf of a person eligible for relief for an act of abuse
10 committed within 1 year after the date that a prior final protective order issued
11 against the same respondent on behalf of the same person eligible for relief expires;
12 and

13 (ii) the prior final protective order was issued for a period of at
14 least 6 months.

15 (3) A subsequent circuit court order pertaining to any of the provisions
16 included in the final protective order shall supersede those provisions in the final
17 protective order.

18 (j) (1) Notwithstanding any other provision of this section, the court shall
19 issue a new final protective order against an individual if:

20 (i) the individual was previously a respondent under this
21 subtitle against whom a final protective order was issued;

22 (ii) the individual was convicted and served a term of
23 imprisonment of at least 5 years under § 2–205, § 2–206, § 3–202, § 3–303, § 3–304, §
24 3–305, § 3–306, § 3–309, § 3–310, § 3–311, or § 3–312 of the Criminal Law Article for
25 the act of abuse that led to the issuance of the final protective order; and

26 (iii) the victim of the abuse who was the person eligible for relief
27 in the original final protective order requests the issuance of a new final protective
28 order.

29 (2) In a final protective order issued under this subsection, the court
30 may grant only the relief that was granted in the original protective order under
31 subsection (d)(1) or (2) of this section.

32 (3) Unless terminated at the request of the victim, a final protective
33 order issued under this subsection shall be permanent.

1 4-507.

2 (a) (1) A protective order may be modified or rescinded during the term of
3 the protective order after:

4 (i) giving notice to all affected persons eligible for relief and the
5 respondent; and

6 (ii) a hearing.

7 (2) For good cause shown, a judge may extend the term of the
8 protective order for 6 months beyond the period specified in § 4-506(i) of this subtitle,
9 after:

10 (i) giving notice to all affected persons eligible for relief and the
11 respondent; and

12 (ii) a hearing.

13 **(3) (I) ~~IF A JUDGE FINDS BY CLEAR AND CONVINCING~~**
14 **~~EVIDENCE THAT THE RESPONDENT HAS COMMITTED A SUBSEQUENT ACT OF~~**
15 **~~ABUSE AGAINST A PERSON ELIGIBLE FOR RELIEF DURING THE TERM OF A~~**
16 **~~PROTECTIVE ORDER~~ IF, DURING THE TERM OF A PROTECTIVE ORDER, A JUDGE**
17 **FINDS BY CLEAR AND CONVINCING EVIDENCE THAT THE RESPONDENT NAMED**
18 **IN THE PROTECTIVE ORDER HAS COMMITTED A SUBSEQUENT ACT OF ABUSE**
19 **AGAINST A PERSON ELIGIBLE FOR RELIEF NAMED IN THE PROTECTIVE ORDER,**
20 **THE JUDGE MAY EXTEND THE TERM OF THE PROTECTIVE ORDER FOR A PERIOD**
21 **NOT TO EXCEED 5 2 YEARS BEYOND THE PERIOD SPECIFIED IN § 4-506(I) OF**
22 **THIS SUBTITLE FROM THE DATE THE EXTENSION IS GRANTED, AFTER:**

23 1. GIVING NOTICE TO ALL AFFECTED PERSONS
24 ELIGIBLE FOR RELIEF AND THE RESPONDENT; AND

25 2. A HEARING.

26 (II) IN DETERMINING THE PERIOD OF EXTENSION OF A
27 PROTECTIVE ORDER UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE
28 JUDGE SHALL CONSIDER THE FOLLOWING FACTORS:

29 1. THE NATURE AND SEVERITY OF THE SUBSEQUENT
30 ACT OF ABUSE;

31 2. THE HISTORY AND SEVERITY OF ABUSE IN THE
32 RELATIONSHIP BETWEEN THE RESPONDENT AND ANY PERSON ELIGIBLE FOR
33 RELIEF NAMED IN THE PROTECTIVE ORDER;

1 **3. THE PENDENCY AND TYPE OF CRIMINAL CHARGES**
2 **AGAINST THE RESPONDENT; AND**

3 **4. THE NATURE AND EXTENT OF THE INJURY OR**
4 **RISK OF INJURY CAUSED BY THE RESPONDENT.**

5 (b) (1) If a District Court judge grants or denies relief under a petition
6 filed under this subtitle, a respondent, any person eligible for relief, or a petitioner
7 may appeal to the circuit court for the county where the District Court is located.

8 (2) An appeal taken under this subsection to the circuit court shall be
9 heard de novo in the circuit court.

10 (3) If an appeal is filed under this subsection, the District Court
11 judgment shall remain in effect until superseded by a judgment of the circuit court.
12 Unless the circuit court orders otherwise, modification or enforcement of the District
13 Court order shall be by the District Court.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2010.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.